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HOUSE BILL 53

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO PUBLIC SCHOOLS; LIMITING GRADE RETENTIONS BY PROVIDING THAT A STUDENT WHO IS NOT PROFICIENT IN READING AND MATHEMATICS AT THE END OF KINDERGARTEN AND EACH GRADE THROUGH EIGHTH GRADE SHALL BE PROVIDED WITH INTENSIVE REMEDIATION; PROVIDING FOR ASSESSMENT, INTERVENTION AND REMEDIATION PROGRAMS TO ADDRESS DEFICIENCIES IDENTIFIED AT THE END OF KINDERGARTEN AND EACH GRADE THROUGH EIGHTH GRADE; REPEALING AND ENACTING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-2C-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is repealed and a new Section 22-2C-6 NMSA 1978 is enacted to read:

"22-2C-6. [NEW MATERIAL] GRADE PROMOTIONS--INTERVENTION--REMEDICATION PROGRAMS--RETENTION POLICIES--RESTRICTIONS.--

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1 A. As used in this section:

2 (1) "academic improvement plan" means a
3 written document developed by the student assistance team that
4 describes the specific content standards required for a certain
5 grade level that a student has not achieved and that prescribes
6 specific remediation programs that have demonstrated
7 effectiveness and can be implemented during the intensive
8 targeted instruction within the school day or during summer
9 school or extended day or week programs and with tutoring;

10 (2) "educational plan for student success"
11 means a student-centered tool developed to define the role of
12 the academic improvement plan within the public school and the
13 school district that addresses methods to improve student
14 learning and success in school and that identifies specific
15 measures of a student's progress;

16 (3) "intensive targeted instruction" means
17 extra instruction in either small groups or as individuals that
18 shall be no less than thirty minutes per day and three days per
19 week and taught by a teacher or tutor who is not the student's
20 classroom teacher;

21 (4) "intervention" means targeted
22 instructional practice for individual students or small groups
23 of students aligned with the results of a valid and reliable
24 assessment and, if applicable, response to intervention as
25 defined in Section 22-13-6 NMSA 1978 and department rule;

1 (5) "grade-level proficiency" means a score on
2 a school-district-approved standards-based assessment that is
3 comparable among school districts statewide;

4 (6) "parent" includes a guardian or other
5 person having custody or control of a school-age person;

6 (7) "remediation programs" includes summer
7 school, extended day or week programs, tutoring, progress-based
8 monitoring and other research-based models for student
9 improvement;

10 (8) "school district" includes both a public
11 school district and a charter school;

12 (9) "school-district-approved assessment"
13 means a student assessment approved by the local
14 superintendent;

15 (10) "small groups" shall consist of no fewer
16 than five students and no more than ten students;

17 (11) "student assistance team" means a group
18 consisting of a student's:

19 (a) teacher;

20 (b) school counselor;

21 (c) school administrator;

22 (d) parent; and

23 (e) if the student or parent wishes, a
24 student representative chosen by the student or parent; and

25 (12) "valid and reliable assessments" means

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1 assessments that:

2 (a) are appropriate to targeted

3 populations;

4 (b) provide predictive values;

5 (c) are thoroughly tested, peer-reviewed
6 and accepted by authorities and practitioners in the field; and

7 (d) are aligned with common core

8 standards.

9 B. Local school districts shall approve
10 intervention and remediation programs and academic improvement
11 programs that have demonstrated effectiveness to provide
12 special instructional assistance to students in kindergarten
13 through eighth grade who do not demonstrate grade-level
14 proficiency in reading and math. Beginning in kindergarten and
15 through the eighth grade, intervention and remediation
16 programs, academic improvement programs and promotion policies
17 shall be aligned with school-district-approved, valid and
18 reliable assessment results and be aligned with state
19 standards. Beginning with kindergarten and through the eighth
20 grade, each student shall be evaluated with school-district-
21 approved assessments to determine the extent of the student's
22 reading and mathematics ability. School-district-approved
23 assessments shall be given, and, if students do not demonstrate
24 grade-level proficiency, academic improvement plans shall be
25 implemented for students in kindergarten through the eighth

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1 grade as follows:

2 (1) at the beginning of the school year,
3 school districts shall administer a school-district-approved
4 assessment to students enrolled in kindergarten. The
5 assessment shall screen students for reading and mathematics
6 skills, including phonological awareness, letter recognition
7 and oral language skills;

8 (2) at the beginning of the school year,
9 school districts shall administer a school-district-approved
10 assessment to students enrolled in first through eighth grades.
11 The assessment shall measure the students' acquisition of
12 reading and mathematics skills, including phonological
13 awareness, phonics, spelling, reading fluency, vocabulary and
14 comprehension; and

15 (3) if the school-district-approved assessment
16 results indicate that the student is not proficient in reading
17 or mathematics, the student assistance team shall immediately
18 develop an academic improvement plan for the student that
19 clearly delineates the student's reading and mathematics
20 deficiencies and that clearly delineates intervention and
21 remediation programs that should be included in the plan,
22 including specific strategies and training for a parent to use
23 in helping the child achieve reading and mathematics
24 proficiency.

25 C. The cost of summer school and extended day

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1 intervention and remediation programs offered in grades nine
2 through twelve shall be borne by the parent; however, in cases
3 in which parents are determined to be indigent according to
4 guidelines established by the department, the school district
5 shall bear those costs.

6 D. A parent shall be notified in writing no later
7 than the end of the first grading period of each school year
8 that the parent's student has not achieved grade-level
9 proficiency in reading or mathematics, and a conference
10 consisting of the parent, the teacher and, if the student or
11 parent wishes, a student representative chosen by the student
12 or parent shall be held to discuss strategies, including
13 intervention and remediation programs available to assist the
14 student in achieving grade-level proficiency. The student's
15 specific academic deficiencies and the available strategies and
16 intervention and remediation programs shall be explained to the
17 student's parent and a written intervention plan shall be
18 developed that contains time lines, academic expectations and
19 the measurements to be used to verify that a student has
20 overcome academic deficiencies. The parent shall be provided
21 with specific strategies to use in helping the student achieve
22 grade-level proficiency. The intervention and remediation
23 programs and academic improvement plan shall be implemented
24 immediately.

25 E. Using data from the 2011-2012 and 2012-2013

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1 school years, each public school shall establish baseline
2 assessment data on reading and mathematics grade-level
3 proficiency for students in kindergarten through the eighth
4 grade.

5 F. At the end of kindergarten and each grade
6 through eighth grade, promotion and retention decisions for
7 each student shall be based upon the determination that the
8 student:

9 (1) has achieved grade-level proficiency and
10 shall enter the next higher grade;

11 (2) has not achieved grade-level proficiency
12 and shall participate in the required level of remediation.

13 Upon certification by the school district that the student has
14 achieved grade-level proficiency, the student shall enter the
15 next higher grade; or

16 (3) has not achieved grade-level proficiency
17 after completion of the prescribed intervention and remediation
18 program and, after consultation with the parent upon the
19 recommendation of the teacher and school principal, shall
20 either be:

21 (a) retained in the same grade for no
22 more than one school year with an academic improvement plan
23 developed by the student assistance team to achieve grade-level
24 proficiency; or

25 (b) promoted to the next grade if the

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1 parent refuses to allow the child to be retained pursuant to
2 Subparagraph (a) of this paragraph and signs a waiver
3 indicating the parent's desire that the student be promoted to
4 the next higher grade with an academic improvement plan
5 designed to address specific reading and mathematics
6 deficiencies. The academic improvement plan shall be developed
7 by the student assistance team outlining time lines and
8 monitoring activities to ensure progress toward overcoming the
9 student's reading and mathematics deficiencies. Students who
10 have been evaluated to determine the nature of their reading
11 and mathematics deficiencies and who have received an
12 intervention and remediation program that is different from the
13 previous year's program but fail to achieve grade-level
14 proficiency at the end of that year as measured by grades,
15 performance on school-district-approved assessments and other
16 measures identified by the school district shall be retained in
17 the same grade for no more than one year in order to have
18 additional time to achieve grade-level proficiency unless
19 exempt from retention as prescribed in Subsection I of this
20 section. The academic improvement plan shall include an
21 alternate program and shall be implemented immediately.

22 G. A student who does not demonstrate grade-level
23 proficiency for two successive school years shall be referred
24 to the student assistance team for placement in an alternative
25 program designed by the school district. Alternative program

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1 plans shall be filed with the department.

2 H. Promotion and retention decisions affecting a
3 student enrolled in special education shall be made in
4 accordance with the provisions of the individual educational
5 plan established for that student.

6 I. A student shall be exempt from the provisions of
7 Subsection F of this section if the student:

8 (1) scores at least at the fiftieth percentile
9 on a school-district-approved norm-referenced assessment or at
10 the proficient level on an alternative school-district-approved
11 criterion-referenced assessment;

12 (2) demonstrates mastery on a teacher-
13 developed portfolio that is equal to at least a proficient
14 performance on the statewide standards-based assessments;

15 (3) shows sufficient academic growth by
16 meeting acceptable levels of academic performance specified by
17 the school district;

18 (4) is an English language learner who is
19 proficient in a language other than English on a valid and
20 reliable reading assessment in that language or who has had
21 less than two years of instruction in English for speakers of
22 other languages; or

23 (5) is a student with a disability who shall
24 be assessed, promoted or retained in accordance with the
25 provisions of the student's individualized education program."

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